



COMMONWEALTH of VIRGINIA

DEPARTMENT OF ENVIRONMENTAL QUALITY

TIDEWATER REGIONAL OFFICE

L. Preston Bryant, Jr.
Secretary of Natural Resources

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David K. Paylor
Director

Francis L. Daniel
Regional Director

STATE AIR POLLUTION CONTROL BOARD ENFORCEMENT ACTION ORDER BY CONSENT ISSUED TO

Lafarge Calcium Aluminates, Inc.

Registration Number 60077

SECTION A: Purpose

This is a Consent Order issued under the authority of Va. Code §10.1-1307.D, §10.1-1309, §10.1-1316.C, and §10.1-1184 between the State Air Pollution Control Board and Lafarge Calcium Aluminates, Inc., for the purpose of resolving certain violations of environmental law and regulations.

SECTION B: Definitions

Unless the context clearly indicates otherwise, the following words and terms have the meaning assigned to them below:

1. “Va. Code” means the Code of Virginia (1950), as amended.
2. “Board” means the State Air Pollution Control Board, a permanent collegial body of the Commonwealth of Virginia as described in Va. Code §§ 10.1-1301 and 10.1-1184.
3. “Department” or “DEQ” means the Department of Environmental Quality, an agency of the Commonwealth of Virginia as described in Va. Code § 10.1-1183.
4. “Director” means the Director of the Department of Environmental Quality.
5. “Order” means this document, also known as a Consent Order.

6. “Lafarge” means Lafarge Calcium Aluminates, Inc., certified to do business in Virginia, and its affiliates, partners, subsidiaries, and parents.
7. “Permit” means Synthetic Minor Stationary New Source Review air permit dated February 11, 2004.

SECTION C: Findings of Fact and Conclusions of Law

1. Lafarge owns and operates the calcium aluminate cement manufacturing facility (“the facility”) located at 1316 Priority Lane, Chesapeake. The facility is subject to the Permit dated February 11, 2004.
2. During a DEQ inspection of the facility on June 17, 2005, DEQ staff documented the following Permit compliance deficiencies:
 - a. Lafarge failed to properly use dust control during offloading of raw materials from a ship. Uncontrolled dust was observed with each load from the ship to an on-shore hopper. Permit condition #4 requires wet suppression at the hopper for dust control. Investigation revealed that the wet suppression system compressed air was turned off and only 4 of 15 water distribution nozzles were operational.
 - b. Lafarge failed to use the dust suppression equipment known as “piling towers” during unloading raw materials from a ship onto stockpile areas. Permit condition #5 requires use of the piling towers to minimize free-fall and dust generation at the stockpiles. Investigation revealed that the piling towers were clogged and not operational.
 - c. Lafarge failed to adhere to equipment maintenance schedules and operating procedures, and provide operator training for air pollution equipment as required by Permit condition #30. The condition of the spray nozzles and piling towers indicated improper maintenance, operating procedures and operator training.
3. DEQ alleges that Lafarge violated Permit conditions #4, #5, and #30.
4. DEQ issued Lafarge a Notice of Violation on June 30, 2005 informing them of the above facts and observations and applicable Permit and regulatory requirements.
5. Lafarge reported on July 14, 2005 corrective action that included installation of improved wet suppression nozzles and a dedicated system air compressor, an additional trained operator, and contractor cleaning of the dust suppression piling towers. At a meeting on September 8, 2005, Lafarge provided examples of improved maintenance schedules.

SECTION D: Agreement and Order

Accordingly, the Board, by virtue of the authority granted it in Va. Code §10.1-1316.C, orders Lafarge, and Lafarge voluntarily agrees, to pay a civil charge of \$10,000.00 within 30 days of the effective date of this Order in settlement of the violations cited in this Order. Payment shall be made by check payable to the "Treasurer of Virginia," shall indicate Lafarge's Federal Identification Number, and shall be sent to:

Receipts Control
Department of Environmental Quality
Post Office Box 10150
Richmond, Virginia 23240

SECTION E: Administrative Provisions

1. The Board may modify, rewrite, or amend the Order with the consent of Lafarge, for good cause shown by Lafarge, or on its own motion after notice and opportunity to be heard.
2. This Order only addresses and resolves those violations specifically identified herein, including those matters addressed in the Notice of Violation issued to Lafarge by DEQ on June 30, 2005. This Order shall not preclude the Board or the Director from taking any action authorized by law, including but not limited to: (1) taking any action authorized by law regarding any additional, subsequent, or subsequently discovered violations; (2) seeking subsequent remediation of the facility as may be authorized by law; or (3) taking subsequent action to enforce the Order. This Order shall not preclude appropriate enforcement actions by other federal, state, or local regulatory authorities for matters not addressed herein.
3. For purposes of this Order only, Lafarge admits the jurisdictional allegations in the Order, but does not admit the factual findings or legal conclusions contained herein.
4. Lafarge consents to venue in the Circuit Court of the City of Richmond for any civil action taken to enforce the terms of this Order.
5. Lafarge declares it has received fair and due process under the Administrative Process Act, Va. Code §§2.2-4000 *et seq.*, and the State Air Pollution Control Law and it waives the right to any hearing or other administrative proceeding authorized or required by law or regulation with respect to any issue of fact or law contained herein, and to any judicial review of any issue of fact or law contained herein. Nothing herein shall be construed as a waiver of the right to any administrative proceeding for, or to judicial review of, any action taken by the Board to enforce this Order.

6. Failure by Lafarge to comply with any of the terms of this Order shall constitute a violation of an order of the Board. Nothing herein shall waive the initiation of appropriate enforcement actions or the issuance of additional orders as appropriate by the Board or the Director as a result of such violations. Nothing herein shall affect appropriate enforcement actions by any other federal, state, or local regulatory authority.
7. If any provision of this Order is found to be unenforceable for any reason, the remainder of the Order shall remain in full force and effect.
8. Lafarge shall be responsible for failure to comply with any of the terms and conditions of this Order unless compliance is made impossible by earthquake, flood, other acts of God, war, strike, or such other occurrence. Lafarge shall show that such circumstances were beyond its control and not due to a lack of good faith or diligence on its part. Lafarge shall notify the DEQ Regional Director in writing when circumstances are anticipated to occur, are occurring, or have occurred that may delay compliance or cause noncompliance with any requirement of the Order. Such notice shall set forth:
 - a. the reasons for the delay or noncompliance;
 - b. the projected duration of any such delay or noncompliance;
 - c. the measures taken and to be taken to prevent or minimize such delay or noncompliance; and
 - d. the timetable by which such measures will be implemented and the date full compliance will be achieved.

Failure to so notify the Regional Director within 24 hours of learning of any condition above, which the parties intend to assert will result in the impossibility of compliance, shall constitute a waiver of any claim to inability to comply with a requirement of this Order.

9. This Order is binding on the parties hereto, their successors in interest, designees and assigns, jointly and severally.
10. This Order shall become effective upon execution by both the Director or his designee and Lafarge. Notwithstanding the foregoing, Lafarge agrees to be bound by any compliance date which precedes the effective date of this Order.
11. This Order shall continue in effect until the Director or Board terminates the Order in his or its sole discretion upon 30 days written notice to Lafarge. Termination of this Order, or any obligation imposed in this Order, shall not operate to relieve Lafarge from its obligation to comply with any statute,

regulation, permit condition, other order, certificate, certification, standard, or requirement otherwise applicable.

12. By its signature below, Lafarge voluntarily agrees to the issuance of this Order.

And it is so ORDERED this day of March 24, 2006.

Francis L. Daniel

Francis L. Daniel, Regional Director
for David K. Paylor, Director
Department of Environmental Quality

Lafarge voluntarily agrees to the issuance of this Order.

By: Graham Reid
Date: 23rd March 2006

Commonwealth of Virginia

City/County of Chesapeake

The foregoing document was signed and acknowledged before me this 23 day of
March, 2006, by Graham Reid, who is
(name)
Plant Manager of Lafarge, on behalf of Lafarge.
(title)

[Signature]
Notary Public

My commission expires: 10-31-08

Embossed Hereon Is My
Commonwealth of Virginia Notary Public Seal
My Commission Expires October 31, 2008
CHRISTINE A. LYTLE

